

July 7, 1998

**OFFICE OF THE HEARING EXAMINER**  
**KING COUNTY, WASHINGTON**

850 Union Bank of California Building  
900 Fourth Avenue  
Seattle, Washington 98164  
Telephone (206) 296-4660  
Facsimile (206) 296-1654

**REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL**

SUBJECT: Department of Development and Environmental Services File No. **L97P0023**

**HIGHLAND CREEK ESTATES DIVISION III**  
Preliminary Plat Application

Location: Lying south of the intersection of Southeast 44<sup>th</sup> Street and 230<sup>th</sup> Way Southeast

Applicant: J. Wright Development, *represented by* **Beth Clark**, Attorney At Law  
777 - 108<sup>th</sup> Avenue Northeast #1500, Seattle, WA 98004

Department: Dept. of Development and Environmental Services, *represented by*  
**Lanny Heno**, Site Plan Review, 900 Oakesdale Avenue SW, Renton, WA 98055-1219

**SUMMARY OF DECISION:**

Department's Preliminary Recommendation: Grant preliminary approval, subject to conditions  
Department's Final Recommendation: Grant preliminary approval, subject to conditions (modified)  
Examiner's Decision: Grant preliminary approval, subject to conditions (modified)

**PRELIMINARY MATTERS:**

Application submitted: May 5, 1997  
Complete application date: July 9, 1997

**EXAMINER PROCEEDINGS:**

Hearing Opened: June 11, 1998  
Administratively Continued: With consent of parties  
Hearing Closed: June 25, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

## ISSUES ADDRESSED:

- Access Routes
- Density (subdivisions)
- Downstream Impacts
- Easements (private)
- Minimum Density
- Notice of Hearing
- Open Space
- Recreation Areas
- Road Capacity
- Road Design
- Road Improvements
- Road Standards
- Sidewalks
- Water Quality
- Wetlands
- Traffic Safety
- Traffic Impacts

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

## FINDINGS:

1. **General Information.**

Owner: Schembs Property Trust, P. O. Box 2197, Sun Valley, ID 83353

Developer: J. Wright Development, 12330 NE 8<sup>th</sup> Street, #101, Bellevue, WA 98005

Engineer: Concept Engineering, Inc., 455 Rainier Blvd. North, Issaquah, WA 98027

Location: Lying south of the intersection of Southeast 44<sup>th</sup> Street and 230<sup>th</sup> Way Southeast

STR: 15-24-06

Zoning: R-6-P

Acreage: 20.52

Number of Lots: 60

Density: 2.92 dwelling units per acre

Typical Lot Size: Ranges from approximately 5,270 to 22,630 square feet

Proposed Use: Detached single-family residences

Sewage Disposal: Sammamish Plateau Water and Sewer District

Water Supply: Sammamish Plateau Water and Sewer District

Fire District: #10

School District: Issaquah #411

Complete Application Date: July 9, 1997

2. **Department Report Adopted.** Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the June 11, and June 25, 1998 public hearings are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application subject to conditions.
3. **Proposal.** J. Wright Development (the "Applicant"), represented by Beth Clark, proposes to develop a 20.52 acre Sammamish Plateau parcel, classified R-6-P, into 60 single-family residential building lots. The proposed lot sizes range from approximately 5,270 to 22,630 square feet, achieving a density of 2.92 dwelling units per acre.
4. **Review.** The proposed plat of Highland Creek Estates III abuts another proposed plat, Cambria Division II. The two development proposals have followed generally parallel review tracks

through DDES. In the case of traffic, a joint traffic study was prepared by consultants to the Applicants at the request of DDES. Further, the public hearings on these two proposals have been conducted concurrently, with the hearing record of each incorporated into the hearing record of the other. Thus, although each of these developments is the subject of a separate Examiner's report, higher review of the Examiner's decision on either application will require consideration of the hearing records of both development proposals.

5. **SEPA.** The Department issued its mitigated threshold determination of nonsignificance (MDNS) for the Highland Creek Estates Division III on April 21, 1998. On April 28, 1998, the Department issued the same determination, containing the same mitigating measures, for Cambria Division II. The MDNS for both proposed plats address phosphorus controls to protect downstream Sammamish Basin waters; and, both developments are required to mitigate traffic impacts at the Issaquah Pine Lake Road intersections with Southeast 48<sup>th</sup> Street and Southeast 42<sup>nd</sup> Street. These required mitigating measures are described more completely on pages 2 and three of the Department's reports on Highland Creek Estates Division III and Cambria Division II. No person, agency or tribe appealed the threshold determination for either project.

A neighboring property owner objects to the notice provided for these threshold determinations. He was out-of-town when the April 21, 1998 notice was issued; then received no notice of a re-issuance of that same determination. Regarding this complaint, KCC 20.20.060 is instructive. Paragraph G.6 of that section indicates that first class mail notification shall "be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice . . ."

6. **Department Recommendation.** The Department recommends granting preliminary approval both to Highland Creek Estates Division III and to Cambria Division II, subject to a variety of conditions of final plat approval that are designed to assure environmental compatibility and consistency with King County planning policies. In the case of Highland Creek Estates Division III, the Department recommends requiring the twenty-three conditions of final plat approval that are stated on pages 13 through 18 of the Department's June 11, 1998 report and recommendation to the Hearing Examiner; subject to the following changes:

A. **Driveway Stopping Sight Distance.** The existing vertical curve on Southeast 48<sup>th</sup> Street at 231<sup>st</sup> Avenue Southeast will require some improvement to assure a stopping sight distance which is consistent with the King County Road Standards (KCRS) for a neighborhood collector road. Cambria exhibit no. 27 proposes a clarification to this condition which will apply to both Cambria Division II and Highland Creek Estates Division III. This amendment seeks merely to clarify that the stopping sight distance standards will be applied to the public street in front of the driveways.

B. **Density and Lot Configuration.** Recommended condition no. 3 on both the Highland and Cambria Departmental reports contains standard conditional language which seeks to protect both the density standards of the zone classification and the integrity of preliminary plat approval. After considerable public discussion among the Department, the Applicant, and the Examiner, the Department agreed to modify recommended condition no. 3 as indicated here:

The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zoning classification ~~((or))~~ and shall be generally as shown on the face of the approved preliminary plat, ~~((which ever is larger,))~~ except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.

**C. King County Road Standards (KCRS) Compliance.** Recommended condition no. 8, as applied to both Cambria Division II and Highland Creek Estates Division III, contains several conditions intended to assure implementation of King County Road Standards. In response to the adequacy of street design concerns expressed by the neighborhood property owners who participated in the public hearing, the Department adds additional recommended condition no. 8 requirements directed toward evaluating the efficacy of “calming devices” and requiring an additional sidewalk along the west side of 229<sup>th</sup> Place Southeast extending through Cambria Division I. Those recommended changes are included in this Examiner’s report as recommended nos. 8.F and 8.G for Highland Creek Estates Division III.

7. **Applicant’s Position.** The Highland Creek Estates Division III Applicant agrees with the Department’s final recommendation as indicated in finding no. 6, above; except that the Applicant wants recommended condition no. 16 amended in such a way as to allow greater flexibility for paying a fee-in-lieu of recreation space. See finding no. 9, below, regarding **Recreation Space**.
8. **Public Participation.** Several neighboring property owners presented their views regarding both Cambria Division II and Highland Creek Estates Division III.

**A. Traffic On 229<sup>th</sup> Place Southeast.** Neighboring property owners located south of the proposed development, along 229<sup>th</sup> Place Southeast, express concern regarding increased traffic likely to be generated by Highland Creek Estates Division III and Cambria Division II. Some apparently were not aware that, when street right-of-way boundary lines “stub” to a plat boundary, it is a sure-fire indication that the street will be extended further someday. (Streets which are planned not to extend further typically are terminated with a permanent cul-de-sac “turnaround.”) Since development of existing homesites along 229<sup>th</sup> Place Southeast, children of homeowners have used the street for play. Now, the property owners fear for the safety of children who have become habituated to lower levels of traffic on 229<sup>th</sup>.

In addition, these same neighbors express concern regarding the adequacy of 229<sup>th</sup> Place Southeast improvements as measured by King County Road Standards. The Department of Development and Environmental Services has agreed with these neighbors to the extent that the Department is recommending the addition of a second sidewalk on 229<sup>th</sup> as well as an engineering evaluation regarding the efficacy of “calming devices” along that street. The Applicant does not object to either added recommendation.

The Department advises that that initial increase in traffic along 229<sup>th</sup> Place Southeast will diminish over the long term as the neighborhood continues to develop—thereby providing additional linkages among the various plats in this vicinity. When build-out of the area approaches completion, traffic will be more evenly distributed among the various subdivisions. Meanwhile, however, traffic along 229<sup>th</sup> Place Southeast will approach, but not exceed, design capacity.

**B. Density.** Already developed properties in this vicinity are developed at R-4 zoning density. However, Cambria Division II and Highland Creek Estates Division III are classified R-6, and therefore are required by County regulations to develop at a higher density. The Highland Creek Estates Division III Applicant indicated that, in his many years of land development experience, he has never encountered a property more difficult to develop at required density. This difficulty results from the combined demands on the property for recreational space, steep slopes preservation, and drainage retention, in addition to providing single-family residential lots of sufficient number to satisfy County density requirements. Some neighboring property owners object to the relatively higher density required by the R-6 classification which has been applied to Highland Creek Estates by the East Sammamish Community Plan and implementing area zoning.

**C. Downstream Phosphorus Standards.** An interested person, affiliated with Washington Environmental Council, challenged the adequacy of phosphorus controls and the absence of a project phosphorus monitoring requirement. King County has adopted a Sammamish Basin goal of reducing aggregate phosphorus discharges to Lake Sammamish by 50%. However, the County Basin Plan does not require site-by-site, project-by-project monitoring. Rather, the Basin Plan calls for monitoring to be conducted by the County (not individual applicants) for the over-all Basin goal.

9. **Recreation Space.** The Department wants each Applicant to provide recreational open-space within each project. Both developers oppose this requirement, although the Highland Creek Estates Division III application may partially satisfy it. The Applicants cite the Council's decision on Sky Meadows regarding this very issue. The Applicants also cite the steep topography of both properties, noting that any recreational area provided on either of these sites would necessarily be terraced. The Department sees no problem with terraced recreation areas. However, the Applicants challenge the safety and utility of terraced recreation areas. In addition, the Applicants cite the stiff competition for land area within each proposed plat, a competition among various County purposes (expressed by policy and regulation) regarding steep slopes protection, drainage retention and phosphorus control (which requires larger detention facilities), recreation space and minimum density requirements. Even if the Highland Creek Estates Division III site were to offer its most level properties, which happen also to be its best view properties, terracing would still be necessary to achieve the County standards for level recreational space.

#### CONCLUSIONS:

1. Both the Applicant and the Department have submitted a variety of similarities and differences, respectively, comparing the Council's appeal decision on Sky Meadows to this case. In the Sky

Meadows case, the Council reversed the Examiner's decision to require actual recreation space rather than mere fee-in-lieu compensation. In this case, the Applicant has shown appropriate recreation facilities are available within a "reasonable distance" (as the Council found in Sky Meadows); and that a linkage to a nearby trail network could be provided (as in Sky Meadows). In the case of Cambria Division II and Highland Creek Estates Division III recreational space, consistent with County design standards, is proposed where reasonably feasible (as in Sky Meadows). Finally, the Highland Creek/Cambria development will contain undeveloped open space (just as in the case of Sky Meadows). The Council's lead will be followed here.

2. As noted by the Department and by the Applicant, the Sammamish Basin Water Quality Plan calls for monitoring to be conducted by the County, not by individual developers. No person has identified any regulation or policy which would authorize the Examiner to unilaterally impose a monitoring requirement on private property developers also in this Basin.
3. The traffic concerns of the neighborhood are serious and legitimate. For that reason, recommended conditions 8.A through 8.F, 9.A, 9.B, 11 and 20 should be adopted and rigorously implemented.
4. The wetland conditions of final plat approval contained in recommended condition no. 15.B are consistent with, and implement, King County sensitive areas code requirements.
5. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Land Use Services Division, it is concluded that approval of this subdivision as recommended below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.
6. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the Comprehensive Plan, East Lake Sammamish Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
7. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.
8. The conditions recommended in the Land Use Services Division's Preliminary Report as amended below are in the public interest and are reasonable requirements.

#### DECISION:

APPROVE the preliminary plat of Highland Creek Estates Division III subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final

plat a dedication which includes the language set forth in King County Council Motion No. 5952.

3. The plat shall combine with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zoning classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards, established and adopted by Ordinance No. 11187.
6. The applicant must obtain the approval of the King County Fire Protection Engineer, regarding the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during the engineering and final plat review.

A. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.

B. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.

C. The following note shall be shown on the final recorded plat:

" All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #\_\_\_\_\_ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

D. Core Requirement No. 3 - Runoff Control.

Storm water runoff control shall be provided using detention design standards contained within the East Lake Sammamish Basin Plan. The stream protection standard (BW2) applies to this project which limits post development flow rates up through the 100-year

storm. The specific design criteria contained within the Basin Plan shall be used for the final design of the drainage plans. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and other drainage designs. The runoff control facilities shall be located in a separate tract and dedicated to King County, unless portions of the drainage tract are used to provide required recreation space (see Condition 20 below).

E. Core Requirement No. 4 - Conveyance Systems.

The outlet pipe from the detention facility is proposed to convey water beneath 229<sup>th</sup> Place SE and into an existing storm drainage tract owned by King County. The capacity of the downstream system shall be evaluated in accordance with the design criteria in the Drainage Manual. Design requirements for conveyance beneath 229<sup>th</sup> Place are subject to review and approval by DDES.

F. Special Requirement No. 5 - Special Water Quality Controls.

Water quality requirements in the Drainage Manual will be satisfied by compliance with the SEPA mitigation conditions applied to this project. These conditions provide for three design options to limit the release of phosphorus concentrations. As noted in the SEPA determination, the conditions are in lieu of the biofiltration requirements in the Drainage Manual.

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) and the following requirements:

A. Two-Thirtieth Avenue Southeast shall be improved as an urban subcollector extending southerly from the existing terminus in Highland Creek Estates Division 2 to the existing road terminus within Cambria. Off-site right-of-way through the Cambria Div. 2 property shall be deeded to King County prior to recording, unless Highland Creek Division III and Cambria Div. 2 are recorded concurrently. As determined by DDES, the required road improvements and bonding for construction can be coordinated with concurrent development of Highland Creek Div. 3 and Cambria. The engineering plans for the off-site road through Cambria Division II shall be designed to comply with approved Road Variance L97V0099, regarding vertical and horizontal road alignment.

B. SE 45<sup>th</sup> Pl. and 232<sup>nd</sup> Pl. SE shall be improved as urban subaccess streets.

C. Proposed reductions in road right-of-way width shall meet the requirements of KCRS 2.03 and 2.20. During review of the final engineering plans, DDES will determine if these requirements are satisfied.

D. The final engineering plans shall demonstrate that the cul-de-sac bulb at the terminus of 229<sup>th</sup> Place SE is designed as a permanent bulb in compliance with KCRS. Additional right-of-way shall be dedicated around the permanent cul-de-sac bulb as determined necessary by DDES.

E. To implement KCRS 5.03, street trees shall be included in the design of all road improvements.

F. Modifications to the above road conditions may be considered by King County, pursuant to



the variance procedures in KCRS 1.08.

G. During review of the final engineering plans, the King County Traffic Division shall evaluate the proposed road designs and determine if traffic calming devices are required for the roadways.

H. A sidewalk shall be provided on the west side of 229<sup>th</sup> Place Southeast extending through Cambria Division I.

9. Two-Thirty-Second Place Southeast shall be extended to the south property line to provide a road connection to the abutting property identified as Tax Lot 51. DDES shall determine the best location for the road connection along the property line. The terminus of the road shall include a temporary cul-de-sac designed in accordance with KCRS 2.08.

10. Off-site road improvements on SE 48<sup>th</sup> Street shall be provided to improve sight distance and provide better walking conditions for pedestrians. The following improvements shall be included on the final engineering plans:

A. The existing southern shoulder on SE 48<sup>th</sup> St. shall be improved where necessary to provide an 8-foot-wide shoulder. Gravel surfacing shall be utilized. The required improvements shall be placed within the existing road right-of-way, and shall extend east from 229<sup>th</sup> Pl. SE to and the Issaquah-Pine Lake Rd. Based on field evaluation of the existing shoulder and potential design constraints, DDES may reduce portions of the shoulder width below eight feet. The existing sidewalk on the east side of 229<sup>th</sup> Place SE, adjacent to Cambria, shall also be extended with a curb radii to provide a pedestrian connection to the shoulders on SE 48<sup>th</sup> St.

B. Two existing driveways located east of 231<sup>st</sup> Avenue Southeast shall be re-located or the curvature of Southeast 48<sup>th</sup> Street modified as necessary to achieve stopping sight distance in front of these driveways consistent with King County Road Standards (KCRS).

11. A geotechnical report shall be submitted with the engineering plans to evaluate design requirements and recommendations for site development. A statement from the geotechnical consultant shall be provided which confirms that the engineering plans have been designed in accordance with their recommendations. The geotechnical report shall address, at a minimum, the following:

A. Determine the location and depth of soil types present on the site including requirements for excavating bedrock.

B. Evaluate design requirements for road construction, rockeries, retaining walls, and storm water detention vaults.

C. Identify locations for erosion hazards and provide site-specific recommendations for minimizing erosion and sediment transport.

D. Identify areas of seasonal saturation and groundwater and provide recommendations regarding designs for intercepting and conveyance of flow.

12. All utilities within proposed rights-of-way must be included within a franchise approved by the

- King County Council, prior to final plat recording.
13. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
  14. The applicant or subsequent owner shall comply with the conditions of the Conditional Certificate of Transportation Concurrence, issued for the subject plat on July 3, 1997. This requires the payment of \$72,000.00 to the Transportation Demand Management Program, prior to plat recording, for the purpose of reducing home based work trips on the Issaquah-Fall City Rd. critical link.
  15. Lots within this subdivision are subject to KCC 21A.43 and Ordinance 12532 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
  16. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or the homeowners association. A note to this effect shall be stated on the face of the final plat.
  17. The following note shall be shown on the final engineering plans and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE  
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

18. The proposed subdivision shall comply with KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
19. Preliminary plat review has identified the following issues which apply to this project. All other applicable requirements for sensitive areas shall also be addressed by the applicant.
  - A. Determine the top, toe, and sides of 40% slopes by field survey. Provide a 50-foot buffer from these slopes, unless a reduction of the buffer is permitted by LUSD, pursuant to the provisions of KCC 21A.24.310.
  - B. All steep slope hazard areas (slopes 40% or greater and their required buffers) shall be placed within a sensitive area tract on the final plat and engineering plans.
  - C. The subject property is an erosion hazard area, as defined by King County. Therefore, the requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities. The time limits during which clearing and grading of the site is permitted shall be clearly shown on the engineering plans. The temporary erosion control plan required by KCC 21A.24.220B shall be reviewed and approved by an LUSD geologist, prior to final engineering plan approval.
  - D. The improvement of 230<sup>th</sup> Way SE may involve impacts to the existing wetland and/or its buffers, which is located in Tract E, Highland Creek Estates Div. 2. During engineering plan review, if such impacts occur, as determined by LUSD, mitigation shall be provided as required by KCC 21A.24.330N. LUSD may require additional information regarding the road design, including hydrologic analysis of the impact of the road cut on the adjacent wetland. LUSD may also require the submittal and approval of mitigation plans, and financial guarantees to assure the installation and success of the mitigation plan.
20. Suitable recreation space shall be provided, consistent with the requirements of KCC 21A.14.180 and 21A.14.190 (except as provided in sub-paragraph “d” below). A recreation space improvement plan shall be reviewed and approved by LUSD and the King County Parks Division prior to engineering plan approval. The recreation space plan shall address the following:
  - A. Finish grades within the recreation space areas shall not exceed 5%. Minor exceptions may be permitted by LUSD.
  - B. If Tracts A and/or E are used to provide required recreation space, a pedestrian trail shall be provided from 230<sup>th</sup> Way SE. The trail shall be developed at grade suitable for pedestrian use, and may be required to be paved by LUSD to assure its longevity.
  - C. If Tract A is used for the dual purposes of providing recreation uses and stormwater control, the Tract shall be owned by a homeowners association for the subject plat. An

easement shall be included on the final plat and engineering plans which grants King County unrestricted access to the Tract for the purpose of maintaining and repairing the drainage facilities.

D. With regard to the square footage requirements of KCC 21A.14.180A and D, and the joint use of Tract A for both recreational and subsurface stormwater facilities, more than 50% credit can be given for Tract A, if active recreational facilities are provided over top of the proposed, subsurface R/D stormwater vault. In this instance, no credit shall be given for the above-ground stormwater facilities, such as the gravel access road, a biofiltration swale, and a sand filter; PROVIDED, however, that appropriate credit shall be given for the pedestrian trails referenced in condition 20.B, above.

E. In the event that applicant is unable to satisfy the total on-site recreational space requirements of KCC 21A.14.180 within Tracts A and/or E, then applicant may pay a fee-in-lieu of actual recreation space pursuant to KCC.21A.14.185 with respect to the difference in the amount of on-site recreation space required under KCC 21A.14.180 and the amount of actual on-site recreation space developed within Tracts A and/or E.

21. A homeowners' association or other workable organization shall be established to the satisfaction of LUSD which provides for the ownership and continued maintenance of the sensitive area tracts, recreation tracts and open space areas.

**The following conditions have been established under SEPA authority as necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.**

22. Runoff from impervious surfaces subject to vehicle use or storage &/or transfer of chemicals, petroleum products or wastes must be treated to remove 50 percent of the annual average total phosphorus concentration before discharge to Lake Sammamish or its tributaries (either natural or engineered). This goal may be met by treating the water quality flow (defined below) with one of the following three on-site treatment options. The design of the facilities shall be approved by King County Water and Land Resource Division (WLRD). Other options that provide an equivalent level of pollutant removal are also acceptable, but must be approved by WLRD.

Option 1: A large wet-pond having a dead storage volume of at least 4.5 times the runoff from the mean annual storm. The mean annual storm is determined by dividing the annual rainfall (in inches) by the number of storms in a typical year. In the Lake Sammamish area, the mean annual storm ranges from about 0.47 to 0.56 inches.

Option 2: A large sand filter treating 95% of the annual average runoff volume as computed by the KCRTS time series. If a detention facility does not precede the sand filter, a pre-settling pond or vault must be provided prior to the sand filter. The pre-settling pond must be sized to hold a volume of 0.75 times the runoff from the mean annual storm.

Option 3: A two-facility treatment train, with the first facility sized to treat the water quality flow (see below), and the second facility a sand filter sized to treat the flow from the first facility, or 90 percent of the annual average runoff volume as computed by the KCRTS time series.

The water quality flow is defined by one of the following:

- The flow generated by 64 percent of the 2-year 24-hour precipitation (SBUH model),
- The flow generated by 60 percent of the developed 2-year peak flow rate (KCRTS model), or
- The flow associated with 95 percent of the annual average runoff volume in the KCRTS time series (typically restricted to sand filter sizing ).

This condition is in lieu of the biofiltration required under Core Requirement #3 in the King County Surface Water Design Manual.

23. The proposed project will have a significant adverse impact on the following intersections if not mitigated:

- Issaquah Pine Lake Road/SE 48<sup>th</sup> Street
- Issaquah Pine Lake Road/SE 42<sup>nd</sup> Street

To mitigate the impact on Issaquah Pine Lake Road/SE 48<sup>th</sup> Street the applicant shall either:

A. Individually construct or proportionally share the construction of a north bound left turn lane on Issaquah Pine Lake Rd at SE 48th St. and a north bound acceleration lane for vehicles turning east to north on Issaquah-Pine Lake Rd.

or

B. Await final plat approval until King County CIP Project #200291 to widen Issaquah-Pine Lake Rd from Issaquah Fall City Rd. to 238th Way SE is within 12 months of construction.

To mitigate the impact on Issaquah Pine Lake Road/SE 42nd Street the applicant shall either:

A. Individually construct or proportionally share the construction of a northbound merge/refuge lane on Issaquah Pine Lake Rd at SE 42nd St. for eastbound to northbound left turning vehicles

or

B. Await final plat approval until the development of Boulder Creek Apartments has an approved permit which includes a public road connecting SE 44th St. to Issaquah Pine Lake Road at the SE Klahanie Blvd. signal.

ORDERED this 7<sup>th</sup> day of July, 1998.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 7<sup>th</sup> day of July, 1998 to the parties and interested persons shown on the attached list.

### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before July 21, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before July 28, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement. If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

### MINUTES OF THE JUNE 11, 1998 AND JUNE 25, 1998 CONCURRENT PUBLIC HEARINGS ON KING COUNTY DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L97P0018 – CAMBRIA DIVISION II AND FILE NO. L97P0023 – HIGHLAND CREEK III:

R. S. Titus was hearing examiner in this matter. Participating in the hearing were Joseph Buys, Beth Clark, Tom Harman, Jim Hess, Robert Johns, Jeff King, Steve Parmelee, Tim Lee, Debra Montgomery, Randy Pfluger, Jim McBride, Nancy Ryan, Liz Tickman, Larry Toedtli, Garrett Upper, Thomas Klemens, Laura Casey/DDES, Steve Bottheim/ DDES, Aileen McManus/KCDOT, Lanny Henocho/DDES and Peter Dye/DDES.

*On June 11, 1998, the following exhibits were offered and entered into the hearing record:*

#### **CAMBRIA DIVISION II/L97P0018:**

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|----------------|--|
| Exhibit No. 1  | Department of Development and Environmental Services, Land Use Services Division file no. L97P0018-Cambria Division II   |
| Exhibit No. 2  | Department of Development and Environmental Services, Land Use Services Division file no. L97P0018-Cambria Division II staff report prepared for the June 11, 1998 public hearing            |
| Exhibit No. 3  | Applicant's application, dated received May 5, 1997  |
| Exhibit No. 4  | Environmental checklist, dated received May 5, 1997  |
| Exhibit No. 5  | SEPA mitigated determination of nonsignificance, issued April 21, 1998   |
| Exhibit No. 6  | SEPA mitigated determination of nonsignificance withdrawal/re-issuance, issued April 28, 1998  |
| Exhibit No. 7  | Affidavit of posting for the notice of recommendation and hearing, received June 4, 1998   |
| Exhibit No. 8  | Proposed preliminary plat map, received May 5, 1997  |
| Exhibit No. 9  | Revised preliminary plat map, received June 5, 1998  |
| Exhibit No. 10 | Land use map – Kroll maps 578 east and west  |
| Exhibit No. 11 | King County assessor map for the SE ¼ of 15-24-06  |
| Exhibit No. 12 | Traffic impact analysis prepared by the Transpo Group, dated November 7, 1997  |
| Exhibit No. 13 | Wetland report, prepared by B-twelve Associates, Inc., dated April 29, 1997  |
| Exhibit No. 14 | Wetland report, dated May 14, 1998, prepared by B-twelve Associates, Inc., with four attached maps   |
| Exhibit No. 15 | Letter, dated May 8, 1998, from Ronald J. Paananen/County Road Engineer, re: road variance application no. L97V0099, and attached May 8, 1998 memorandum containing findings and conclusions |
| Exhibit No. 16 | Letter, dated June 5, 1996, from Jesse Krail/County Road Engineer, re: road variance application no. L95V0010  |
| Exhibit No. 17 | Letter, dated March 14, 1997, from George Wannamaker/Acting Managing Engineer, re: road variance application no. L95V0010  |
| Exhibit No. 18 | Letter, dated June 5, 1998, from Kathleen Buys/Cambria resident, to King County Hearing Examiner   |
| Exhibit No. 19 | Letter, dated June 8, 1998, from James McBride, et al, to DDES   |
| Exhibit No. 20 | Letter, dated June 10, 1998, from Victoria Trigg, to KC Hearing Examiner   |
| Exhibit No. 21 | Letter, dated June 11, 1998, entered by Nancy Ryan in support of her verbal testimony  |

- Exhibit No. 22 Map, composed of combined Cambria exhibit no 8 and Highland Creek exhibit no 7, sections colored with marker
- Exhibit No. 23 7 pages of photos showing streets presently existing in Cambria development which are expected to be impacted by additional developments

*On June 25, 1998, the following exhibits were offered and entered into the hearing record:*

**CAMBRIA DIVISION II/L97P0018:**

- Exhibit No. 24 Pre-application plat map of Westview on the Highlands
- Exhibit No. 25 Letter, dated June 25, 1998, from Upland Homeowners Association, to Hearing Examiner
- Exhibit No. 26A Sky Meadows hearing examiner report and recommendation dated July 15, 1996, with cover letter from Reed McClure, dated June 17, 1998
- Exhibit No. 26B Sky Meadows summary of issues from hearing examiner report dated July 15, 1996
- Exhibit NO 26C Ordinance No. 12451 approving the preliminary plat of Sky Meadows
- Exhibit No. 27 DDES modifications to Condition #10B/Highland Creek staff report, and Condition #18/Cambria staff report
- Exhibit No. 28 Additions to Condition 8 (both reports)
- Exhibit No. 29 Letter, dated June 25, 1998, from Steven Parmelee, to the Hearing Examiner
- Exhibit No. 30 Letter, dated June 25, 1998, from Jefferey King, to the Hearing Examiner
- Exhibit No. 31 Notes from testimony: Aileen McManus, KCDOT, Traffic Engineering Division
- Exhibit No. 32 Highland Creek Estates Division III—L97P0023, exhibit nos. 1 through 18, listed below, incorporated herein by reference

*On June 11, 1998, the following exhibits were offered and entered into the hearing record:*

**HIGHLAND CREEK ESTATES DIVISION III/L97P0023:**

- Exhibit No. 1 Department of Development and Environmental Services, Land Use Services Division file no. L97P0023-Highland Creek Estates Division III
- Exhibit No. 2 Department of Development and Environmental Services, Land Use Services Division file no. L97P0023-Highland Creek Division III staff report prepared for the June 11, 1998 public hearing
- Exhibit No. 3 Applicant's application, dated received May 27, 1997 and May 29, 1997
- Exhibit No. 4 Environmental checklist, dated received May 27, 1997
- Exhibit No. 5 SEPA mitigated determination of nonsignificance, issued April 21, 1998
- Exhibit No. 6 Affidavit of posting for the notice of recommendation and hearing, dated received June 4, 1998
- Exhibit No. 7 Revised preliminary plat map, received March 30, 1998
- Exhibit No. 8 Revised preliminary plat map, received June 5, 1998
- Exhibit No. 9 Letter, dated June 4, 1998, from James H. Hess (accompanied exhibit no. 8)
- Exhibit No. 10 Land use map – Kroll map 578 east and west
- Exhibit No. 11 King County assessor map for SW ¼ of 15-24-06
- Exhibit No. 12 Traffic impact analysis prepared by Transpo Group, dated November 11, 1997
- Exhibit No. 13 Habitat study, prepared by Terra Associates, Inc., dated April 23, 1997
- Exhibit No. 14 Geotechnical report, prepared by Terra Associates, Inc., dated March 13, 1997
- Exhibit No. 15 Language to revise condition nos. 8, 10 and 23
- Exhibit No. 16 Language to revise condition no. 20

*On June 25, 1998, the following exhibits were offered and entered into the hearing record:*

**HIGHLAND CREEK ESTATES DIVISION III/L97P0023:**

- Exhibit No. 17 Page 2, preliminary plat application map for Highland Creek Estates Division III
- Exhibit No. 18 Highland Creek Estates Division III area map, highlighted to show parks available within surrounding area
- Exhibit No. 19 Cambria Division II—L97P0018, exhibit nos. 1 through 31, listed above, incorporated herein by reference